

REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed June 21, 2006. At the time of the Office Action, Claims 1-11, 13-22, 24-25, and 27-31 were pending in the Application. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

Section 103 Rejections

The Examiner rejects Claims 1, 6-8, 11, 13, 16, 19-22, and 27-28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,047,051 issued to Ginzboorg et al. (hereinafter "*Ginzboorg*") in view of U.S. Patent No. 6,389,537 issued to Davis et al. (hereinafter "*Davis*"). The Examiner rejects Claims 2-4 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,905,736 issued to Ronen et al. (hereinafter "*Ronen*"). The Examiner rejects Claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,956,391 issued to Melen et al. (hereinafter "*Melen*"). The Examiner rejects Claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,907,477 issued to Roden et al. (hereinafter "*Roden*"). The Examiner rejects Claims 10 and 14-15 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Publication No. 2002/0059114 issued to Cockrill et al. (hereinafter "*Cockrill*"). The Examiner rejects Claim 17 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,852,812 issued to Reeder (hereinafter "*Reeder*"). The Examiner rejects Claim 18 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,778,189 issued to Kimura et al. (hereinafter "*Kimura*"). The Examiner rejects Claims 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,319,454 issued to Schutte (hereinafter "*Schutte*"). The Examiner rejects Claims 29-31 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Ronen*.

The Examiner's opening remarks of the recent Office Action, indicating some countenance to Applicants' previous analysis, gave Applicants hope that surely their arguments were finally being heard. However, the Examiner maintained his §103 and is still relying on *Ginzboorg* as his base reference, and such reliance is simply misplaced.

Applicants will not further burden the Examiner with well accepted §103 jurisprudence and, instead, moves directly to his arguments.

First, Independent Claim 1 recites that the proxy receives the content request and it is the proxy that determines which content is chargeable and which is free (i.e. “receiving in the proxy a content request for providing the content, - determining, by the proxy, whether or not the content is chargeable content, wherein the determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free to end users connected to a network...”). In the system of *Ginzboorg*, it is the server of the service provider that is contacted first and then a subsequent billing entity is contacted afterwards. (See Columns 5-6 of *Ginzboorg*.) Additionally, the billing entity of *Ginzboorg* is consulted for billing information, whereas it is the proxy of Independent Claim 1 that executes this determination. Finally, nowhere is there any disclosure in *Ginzboorg* for distinguishing free content versus chargeable content. *Ginzboorg* presumes that all content is chargeable and, subsequently, it is only a matter of identifying a price parameter for that content before proceeding further in the *Ginzboorg* architecture. For at least these three separate reasons, Independent Claim 1 is clearly allowable over *Ginzboorg*.

Additionally, neither *Ginzboorg* nor *Davis* offer: “providing the content corresponding to the content request *under the control of the proxy* from the content server to the subscriber terminal.” By controlling the delivery of content, the proxy is able to monitor the subscriber’s usage without imposing any requirement for upgrades or modifications to the subscriber’s terminal. In contrast, *Ginzboorg* clearly places the monitoring burden on each individual terminal that subscribes to a service. (See *Ginzboorg* at col. 3, lines 13-16 (“monitoring is done in the customer terminal”).)

The Examiner cites column 6, lines 55-63 for the proposition that *Ginzboorg* teaches this element of the Applicants’ claimed invention, but this passage makes only a passing reference to providing content and does not suggest that the “billing server” controls the content delivery. To the contrary, *Ginzboorg* states that “the billing server asks the service provider to start sending the information to the customer,” which implies that the billing server does not participate at all in the content delivery. This implication is consistent with the other statements in *Ginzboorg* that place the monitoring burden on the customer terminal. Thus, *Ginzboorg* requires upgrades or changes to customer terminals, such as the user

interface illustrated in FIGURE 4 of *Ginzboorg*, so that the customer terminals may monitor content delivery and interact with the billing server. Accordingly, *Ginzboorg* fails to provide this advantage of the Applicants' claimed invention, and fails to teach or suggest the limitation of Independent Claim 1 that requires the proxy to control the content delivery.

Finally, the Examiner rejects Claims 2-11, 13-22, 24-25, and 27-28 under 35 U.S.C. §103(a), citing various references in support thereof. These claims, however, depend on Independent Claim 1 and are patentable for the same or analogous reasons for which that claim is patentable. The Applicants respectfully request reconsideration and withdrawal of these rejections for the reasons set forth above.

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of the pending claims.

Applicants believe no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicants invite the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,
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